

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Patrick LeVar Smith,) C/A No. 5:14-284-MGL-KDW
)
Plaintiff,)
)
vs.) ORDER
)
Southern Health Partners;)
Nurse Sonia;)
Major;)
Ashley, and)
Jennifer,)
)
Defendants.)

This case is before the Court because of Plaintiff's failure to comply with the magistrate judge's Order of February 4, 2014. ECF No. 9.

A review of the record indicates that the magistrate judge ordered Plaintiff to submit items needed to render this case into proper form within twenty-one days, and specifically informed Plaintiff that if he failed to do so, this case would be dismissed *without prejudice*. The mail in which the Court's Order was mailed to Plaintiff at the address he provided when he filed the case was returned to the Court marked "undeliverable" and "unable to forward." ECF No. 14. Plaintiff has not contacted the Court with a change of address. As a result, the Court is unable to contact him at this time to determine his actual intent regarding the continued prosecution of this case.

Plaintiff's failure to provide the Court with a proper forwarding address at which he can be reached with communications about this case indicates an intent to not continue prosecuting this case and subjects this case to dismissal. *See Fed. R. Civ. P. 41(b)*(district courts may dismiss an

action if a Plaintiff fails to comply with "any order of the court."); *see also Ballard v. Carlson*, 882 F.2d 93, 95 (4th Cir. 1989)(dismissal with prejudice appropriate where warning given); *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir. 1982)(court may dismiss *sua sponte*).

Accordingly, this case is dismissed *without prejudice*. The Clerk of Court shall close the file.¹

IT IS SO ORDERED.

/s/Mary Geiger Lewis
United States District Judge

February 19, 2014
Spartanburg, South Carolina

¹ Under General Order, Misc. No. 3:07-5014-JFA, this dismissal *without prejudice* does not count as a "strike" for purposes of the "three strikes" provision of 28 U.S.C. § 1915(g). If Plaintiff wishes to bring this action in the future, he should obtain new forms for doing so from the Clerk's Office in Columbia (**901 Richland Street, Columbia, South Carolina 29201**).

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within the time period set forth under Rules 3 and 4 of the Federal Rules of Appellate Procedure.
